

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FRANKLIN ARMORY HOLDINGS INC., a
Nevada Corporation; and FRANKLIN
ARMORY INC., a Nevada Corporation,

Plaintiffs,

vs.

ROBERT JOSEPH GALLAGHER, an
individual; and IN THE FIELD DEFENSE, a
sole proprietorship,

Defendants.

CIVIL ACTION NO. 2:20-CV-5681

**DECLARATION OF JAY JACOBSON IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION TO STAY LITIGATION**

I, Jay Jacobson, being of full age, hereby certify to the following:

1. The facts stated herein are based on my personal knowledge, except with respect to those matters stated to be on information and belief, and as to those matters, I believe them to be true. If called upon to testify as a witness in this matter, I could and would do so competently.

2. I am the President of Franklin Armory Inc. ("FAI") and the principal Director of Franklin Armory Holdings, Inc. ("FAHI"), the Plaintiffs in this lawsuit (collectively, "Franklin"). Franklin Armory Inc. is a Nevada corporation that specializes in the manufacture and sale of quality firearms and firearm accessories for sporting, military, and law enforcement applications. Franklin Armory Inc. is well-known for its innovative products, such as its Binary Firing System®.

3. FAHI has been successful in licensing certain intellectual property related to Franklin's proprietary Binary® trigger products, including U.S. Patent 10,393,461 ("the 461 Patent"). For example, FAHI has licensed the '461 Patent to its competitor, Fostech Inc., another manufacturer of firearms and firearm accessories.

4. As used herein, “pull-release mode” refers to a mode of operation for a firearm wherein a first round is discharging upon a first “pull” action of the trigger and a second round is discharged upon a second “release” action of the trigger. According to a recent study performed for Franklin Armory Inc. by an independent research firm, it has an approximately 70% share of the commercial market for pull-release trigger systems. According to that same study, FAHI’s licensee, Fostech Inc., has an approximately 29% market share. Thus, in combination with its licensee, Franklin effectively has a 99% share of the retail market for pull-release trigger systems. A true and correct copy of the independent market share report is attached hereto as **Exhibit 1**.

5. Defendants Robert Gallagher and In The Field Defense have sold or sell various pull-release mode products, such as (1) the “ITF binary trigger,” (2) ITF 80% pull-release trigger kit, (3) ITF 80% trigger kit for AR 15, AR10, AR9, and AR45; and (4) “S&W MP 15-22 80% binary trigger kit,” that directly compete with Franklin’s Binary Trigger System® and related Binary® products. For example, both the “ITF binary trigger” produced by Defendants and Franklin’s Binary Trigger System® are designed to enable a “pull-release mode” when installed in AR series firearms.

6. Franklin owns trademark registrations for the marks “Binary” and “Binary Firing System” (U.S. Reg. Nos. 6272568 and 6293943, respectively) and uses these trademarks to market Franklin’s firearm products. A true and correct copy of the registration certificates confirming Franklin’s registration of these marks is attached hereto as **Exhibit 2**.

7. I believe that Defendants’ sales of its competing products has harmed and will continue to harm Franklin’s share within the retail market for pull-release trigger systems. Perhaps more significantly, due to what I believe are a lack of appropriate safety measures in Defendants’ competing products, as well as its failure to obtain independent confirmation of compliance with

firearms regulations in the manufacture and sale of these competing products, Defendants' continued selling of its competing products has likely seriously harmed and will continue to seriously harm Franklin's goodwill and reputation as a quality organization that produces high-caliber products and complies with all applicable federal and state firearm regulations when selling to consumers.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willingly false, I am subject to punishment.

Dated: September 8, 2021


Jay Jacobson